



APPENDIX B
PROPOSED DECREE

IT IS ORDERED, ADJUDGED AND DECREED THAT

I. For purposes of this decree:

(A) "Annual Minimum Delivery Obligation" shall mean the annual amount of water owed by New Mexico to Texas under this decree over and above the Article III(a) obligation.

(B) "Index Inflow" shall mean the three year progressive average of "annual flood inflows" as those terms are defined in Tex. Exh. 79, Table 2 at page 5.

(C) "Water Interest" shall equal the return on one year treasury bills as of the date that it is determined that New Mexico has not met its obligations under this decree.

II. The State of New Mexico, its officers, attorneys, agents, and employees be and they are hereby severally enjoined:

(A) To comply with the Article III(a) obligation of the Pecos River Compact by delivering to Texas at state line each year an amount of water calculated in accordance with the inflow-outflow equation contained in Tex. Exh. 68 at page 2.

(B) To calculate the Index Inflow component of the inflow-outflow equation by using the inflow-outflow and channel loss equations **and the other procedures** contained in Tex. Exh. 79.¹

(C) To deliver to Texas at state line an additional amount of water aggregating **367,700** acre feet over a period of ten years as specified in Article III of this Decree and to deliver to Texas at state line not less than **36,770** acre feet of water per year for ten years to satisfy the Annual Minimum Delivery Obligation.

1. Tex. Exh. 79 will have to be modified to reflect decisions by the Court as to man-made depletions chargeable to New Mexico.

III. New Mexico is granted three years from the date of this Decree to commence performance of the Annual Minimum Delivery Obligation, provided that during the three-year period she demonstrates good faith by complying with the Article III(a) obligation in each of the three years. If New Mexico fails to demonstrate such good faith, New Mexico shall commence performance of the Annual Minimum Delivery Obligation of 36,770 acre feet at the beginning of the year next ensuing after the year of default in the Art. III(a) obligation.

IV. If New Mexico shall have failed to deliver to Texas at state line at the end of five years from the date specified in Article III of this Decree 147,080 acre feet of water (being eighty percent of 183,850 acre feet of water owed by New Mexico during this five-year period), New Mexico shall pay to Texas, in addition to any amounts owed under this Decree, Water Interest on all amounts undelivered during the five-year period as well as Water Interest on the balance of the amount New Mexico owes to Texas under Section II(C) of this Decree. If New Mexico shall have failed to deliver to Texas at state line at the end of the sixth, seventh, eighth, ninth, and tenth years from the date specified in Article III of this Decree 29,416 acre feet of water (being eighty percent of 36,770 acre feet of water owed by New Mexico during each of these years), New Mexico shall pay to Texas, in addition to any amounts owed under this Decree, Water Interest on all amounts undelivered during that year as well as Water Interest on the balance of the amount New Mexico owes to Texas under Section II(C) of this Decree.

V. [If an arbiter is appointed] The Pecos River Commission, its officers and employees [or, the River Master] are enjoined to make the calculations provided for in this Decree annually as promptly as data are available and to report the calculations to appropriate representatives of the State of New Mexico and the State of Texas.